

APPEAL NO. 032788
FILED DECEMBER 10, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 1, 2003. The hearing officer determined that: (1) the appellant (claimant) did not sustain a compensable injury on _____; (2) the claimant did not have disability; and (3) the respondent (carrier) is relieved from liability under Section 409.002, because the claimant failed to timely notify his employer of an injury pursuant to Section 409.001. The claimant appeals these determinations on sufficiency of the evidence grounds. The carrier urges affirmance.

DECISION

Affirmed as reformed.

The claimant attached additional documentation to his appeal which would purportedly show that he sustained a compensable injury. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. See *generally* Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Upon our review, the evidence offered is not so material that it would probably produce a different result, nor is it shown that the documents could not have been obtained prior to the hearing below. The evidence, therefore, does not meet the requirements for newly discovered evidence and will not be considered on appeal.

The hearing officer did not err in making the complained-of determinations. The injury and notice determinations involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have disability. Section 401.011(16).

We note that the hearing officer's conclusions of law are misnumbered, beginning with Conclusion of Law No. 3. Accordingly, we reform the Decision and Order by renumbering the conclusions of law sequentially.

The decision and order of the hearing officer is affirmed as reformed.

The true corporate name of the insurance carrier is **UNITED STATES FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PAUL DAVID EDGE
6404 INTERNATIONAL PARKWAY, SUITE 1000
PLANO, TEXAS 75093.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge